

REMARKS

In the Office Action, the Examiner rejected claims 1-4, 30, 31, 39-43, 48, and 49 under 35 U.S.C. §103(a) as being unpatentable over Klepacki in view of the Yamamoto patent.

Independent claim 1 is directed to a method of estimating purchases made by customers of a supplier of interest from other suppliers, and the method is performed on a computer. According to the method, panelist data regarding purchases made by panelists from the supplier of interest and from the other suppliers are read. The panelists are a subset of the customers. A relationship between the purchases made by the panelists from the supplier of interest and the purchases made by the panelists from the other suppliers is determined. Customer data regarding purchases made by the customers from the supplier of interest are read. Based upon the customer data and the relationship, the purchases made by the customers from the other suppliers are estimated.

Klepacki states that a retailer should use panel data to determine the purchases that their customers make from competing stores. Klepacki also states the panelist data also makes available to a retailer the market shares of the other retailers.

However, contrary to the Examiner's argument, it would not have been obvious to use these two

statements from Klepacki in combination with the Yamamoto patent to produce the invention of independent claim 1.

The Examiner suggests that market share information provides the relationship between the purchases made by the panelists from the supplier of interest and the purchases made by the panelists from the other suppliers is not accurate. However, market share is only indicative of the piece that each retailer has of the total market pie. For example, market share indicates that, of a total market of  $x$ , retailer 1 has  $x_1\%$  of  $x$ , retailer 2 has  $x_2\%$  of  $x$ , and so. Thus, even if retailer 1 knows the market share of retailer 2, retailer 1 does not know how its customer based contributed to the market share of retailer 2.

Accordingly, market share information is not customer specific and, therefore, does not provide the relationship between the purchases made by the panelists from the supplier of interest and the purchases made by the panelists from the other suppliers. Consequently, market share is not useful in estimating the purchases made by the customers of one supplier from other suppliers in the manner recited in independent claim 1.

The Yamamoto patent does not help in this regard. The Yamamoto patent describes forecasting demand based on past sales from sample outlets and purchasing information related to all outlets. The demand forecast

is used by factories to determine desired production levels. The Yamamoto patent does not describe or suggest the relationship recited in independent claim 1.

The Examiner points to the top of column 8 of the Yamamoto patent. This portion of the Yamamoto patent describes that POS terminals are installed at sample outlets representing a given percentage of all outlets. A scale-up estimating routine receives the sales information from these POS terminals and scales up these sales based on a ratio of the number of products purchased by all outlets to the number of products purchased by the sample outlets and based on a deviation factor. This scaled-up information is used to forecast demand, and the forecasted demand is used to set production levels.

The ratio described in this portion of the Yamamoto patent is not the relationship recited in independent claim 1. Instead, and using the language of independent claim 1, the Yamamoto ratio is the number of products purchased by all suppliers (not customers) to the number of products purchased by a retailer of interest (again, not customers).

Moreover, the Yamamoto patent is interested neither (i) in forming a relationship that links purchases that are made by panelists selected from a subset of the customers of a supplier of interest and

that are made from the supplier of interest to the purchases made by the panelists from other suppliers, nor (ii) in using such a relationship to determine the purchases that the fuller set of customers of the supplier of interest make from other suppliers. Accordingly, the Yamamoto patent does not suggest the relationship recited in independent claim 1.

The Examiner also states on page 3 of the Office Action that the overall customer data of the retailer may be simply linearly scaled up to the overall customer population. However, scaling up the sales of a retailer based on market share does not provide the retailer with any information regarding the purchases made by its customers from the other retailers. Similarly, scaling up the sales of the retailer based on equation (1) of the Yamamoto patent is not particularly meaningful and does not provide the retailer with any information regarding the purchases made by its customers from the other retailers.

The Examiner further states on page 3 of the Office Action that it is generally known to scale up data regarding purchases made from a sample shop (citing column 8, line 18 of the Yamamoto patent) in order to determine the sales to the general population. This statement is not particularly relevant to independent claim 1. Moreover, sampling and scaling up based on the

sample is, as a general principle, well known. TV audience shares are determined on this basis. However, such sampling and scaling up still will not indicate what portion of the sales of one retailer can be attributed to the customers of another retailer.

The Yamamoto patent does not help the Examiner in this regard because the data produced according to the Yamamoto patent is akin to market share that does not indicate what portion of the sales of one retailer can be attributed to the customers of another retailer.

More specifically, column 8 of the Yamamoto patent merely describes that sales data is collected from sample retail outlets representing a known percentage of all retail outlets, and that a scale-up estimate is obtained according to the following equation:

$$\text{Estimate} = A \frac{B}{C} D$$

where A is the sales data collected from the sample outlets, B is the total amount of product purchased by all outlets, C is the total amount of product purchased by the sample outlets, and D is a fudge factor.

As can be seen, the resulting estimate is an estimate of the sales made by all outlets and gives no

information about what portion of the sales of one outlet can be attributed to the customers of another outlet.

The Examiner concludes on page 3 of the Office Action that, in view of this disclosure in the Yamamoto patent, it would have been obvious to scale up the data collected according to Klepacki for the purpose of understanding the purchasing trends of the overall customer base.

However, whatever scaling up is suggested by the Yamamoto patent, the Yamamoto patent does not suggest a scaling up that would indicate what portion of the sales of one supplier can be attributed to the customers of another supplier because the Yamamoto patent does not suggest a customer specific relationship and because the market share mentioned in Klepacki similarly does not suggest a customer specific relationship. Therefore, the combination of Klepacki and the Yamamoto patent does not suggest the relationship recited in independent claim 1.

Thus, because neither Klepacki nor the Yamamoto patent describes or suggests the relationship recited in independent claim 1, one skilled in the art would not have combined Klepacki and the Yamamoto patent to meet the limitations of independent claim 1.

The Examiner points out that Klepacki states that a retailer should use panel data to determine the purchases that their customers make from competing

stores. However, Klepacki states only what retailers should do and does not teach retailers how to do it. Moreover, Klepacki does not disclose or suggest using panel data to determine the relationship recited in independent claim 1, and Klepacki does not disclose or suggest estimating the purchases made by the customers from the other suppliers based upon customer data and the relationship as also recited in independent claim 1.

The Examiner asserts that this estimation is simply a matter of scaling up customer data. However, scaling up customer data based on the relationship recited in independent claim 1 is not taught by Klepacki or by the Yamamoto patent.

Klepacki does not teach how to use panel data (as shown above, market share information cannot be used as the basis for this relationship), and equation (1) of the Yamamoto patent is not based on the relationship recited in independent claim 1.

Therefore, independent claim 1 is not unpatentable over Klepacki in view of the Yamamoto patent.

Independent claim 30 is directed to a method of estimating purchases made by customers of a supplier of interest from other suppliers. According to the method, customer data regarding purchases made by the customers from the supplier of interest are read, and panelist data

regarding purchases made by panelists from the supplier of interest and from the other suppliers are also read. The panelists are a subset of the customers. Purchases made by the customers from the other suppliers are estimated based upon the customer data and the panelist data.

As can be seen from the above review of Klepacki, Klepacki does not describe or suggest estimating purchases made by the customers of a supplier of interest from other suppliers based upon customer data and panelist data. Additionally, Klepacki does not describe the customer data recited in independent claim 30.

Similarly, the Yamamoto patent is only concerned with forecasting demand. Also, as discussed above, the Yamamoto patent does not suggest that the ratio of equation (1) can be used to estimate purchases made by the customers of a supplier of interest from other suppliers based upon customer data and panelist data. Further, the Yamamoto patent does not describe the customer data recited in independent claim 30.

Thus, one skilled in the art would not have combined Klepacki and the Yamamoto patent to meet the limitations of independent claim 30.



Therefore, independent claim 30 is not unpatentable over Klepacki in view of the Yamamoto patent.

Independent claim 39 is directed to a method in which purchases made by customers of a supplier of interest are estimated. A linear relationship between purchases made by panelists from the supplier of interest and purchases made by the panelists from other suppliers is determined, and purchases by the customers from the other suppliers are estimated based upon the linear relationship.

Klepacki does not describe or suggest determining the relationship recited in independent claim 39. Accordingly, Klepacki does not describe or suggest a relationship that can be used to determine the purchases that its customers, not just its survey customers, make from other jewelers.

As also discussed above, the Yamamoto patent likewise does not describe or suggest such a relationship.

The ratio described in the Yamamoto patent is a ratio of the number of products purchased by all suppliers to the number of products purchased by a retailer of interest. Thus, this is a ratio of purchases made by suppliers, not purchases made by customers of the

suppliers. Such a ratio has no bearing on the relationship recited in independent claim 39.

Therefore, the Yamamoto patent does not describe the relationship recited in independent claim 39.

Moreover, the Yamamoto patent is interested neither in forming a relationship that links purchases that are made by panelists selected from a subset of the customers of a supplier of interest and that are made from the supplier of interest to the purchases made by the panelists from other suppliers, nor in using such a relationship to determine the purchases that the fuller set of customers of the supplier of interest make from other suppliers. Accordingly, the Yamamoto patent does not suggest the relationship recited in independent claim 39.

Thus, because neither Klepacki nor the Yamamoto patent describes or suggests the relationship recited in independent claim 39, one skilled in the art would not have combined Klepacki and the Yamamoto patent to meet the limitations of independent claim 39.

Therefore, independent claim 39 is not unpatentable over Klepacki in view of the Yamamoto patent.

Independent claim 43 is system for estimating purchases made by customers of a supplier of interest

that comprises analyzing means and estimating means. The analyzing means analyzes purchases made by the customers from the supplier of interest and purchases made by panelists from both the supplier of interest and other suppliers. The panelists are a subset of the customers of the supplier of interest, and the purchases made by the panelists from the supplier of interest are independent of the purchases made by the panelists from the other suppliers. The estimating means estimates purchases by the customers from the other suppliers based upon the analyzed purchases.

As can be seen from the above review of Klepacki, Klepacki does not describe or suggest estimating purchases made by the customers of a supplier of interest from other suppliers based upon customer data and panelist data. Additionally, Klepacki does not describe the customer data recited in independent claim 43.

Similarly, the Yamamoto patent does not suggest that the ratio it describes can be used to estimate purchases made by the customers of a supplier of interest from other suppliers based upon customer data and panelist data. Thus, the Yamamoto patent does not describe the customer data recited in independent claim 43.

Thus, one skilled in the art would not have combined Klepacki and the Yamamoto patent to meet the limitations of independent claim 43.

Therefore, independent claim 43 is not unpatentable over Klepacki in view of the Yamamoto patent.

Because independent claims 1, 30, 39, and 43 are not unpatentable over Klepacki in view of the Yamamoto patent, dependent claims 2-4, 31, 40-42, 48, and 49 are likewise not unpatentable over Klepacki in view of the Yamamoto patent.

Newly added dependent claims 50, 51, 52, and 53 add that the purchases made by customers of one supplier from the other suppliers are estimated by product category. Klepacki and the Yamamoto patent do not suggest making purchasing estimates by category.

CONCLUSION

In view of the above, the claims of the present application patentably distinguish over the art applied by the Examiner. Accordingly, allowance of these claims and issuance of the present application are respectfully requested.

Respectfully submitted,

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